

**IN THE ENFORCEMENT COMMITTEE ESTABLISHED IN TERMS OF  
SECTION 10(3), READ WITH SECTION 10A OF THE FINANCIAL  
SERVICES BOARD ACT, 97 OF 1990**

CASE NO: **16/2014**

In the matter of:

**THE REGISTRAR OF FINANCIAL  
SERVICES PROVIDERS**

Applicant

and

**CLIFFORD MEY**

Respondent

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**ORDER**

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WITH DUE CONSIDERATION to the settlement agreement (attached marked annexure "A") in terms of section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001, I hereby determine that the Respondent contravened section 7 (3) of the Financial Advisory and Intermediary Services Act, 37 of 2002 and Section 2 of the General Code of Conduct For Authorized Financial Services Providers and Representatives, 2003 and impose a penalty of R800 000.

The remaining terms and conditions of the settlement agreement are incorporated and made an order of the Enforcement Committee.

Signed at **PRETORIA** on the ..... day of **October 2014**.



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**C F Eloff**  
**Chairperson of the Enforcement Committee**

**IN THE PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE  
ESTABLISHED IN TERMS OF SECTION 10(3) OF THE FINANCIAL  
SERVICES BOARD ACT, NO 97 OF 1990**

CASE NO: **16/2014**

In the matter of:

**THE REGISTRAR OF FINANCIAL  
SERVICES PROVIDERS**

Applicant

and

**MEY, CLIFFORD**

Respondent

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**AGREEMENT IN TERMS OF SECTION 6B(7)(a) OF THE FINANCIAL  
INSTITUTIONS (PROTECTION OF FUNDS) ACT, NO 28 OF 2001**

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**1. The parties to the agreement are:**

1.1. The Registrar of Financial Services Providers, Caroline Dey da Silva, ("the Registrar"), who is the Applicant in this matter;

and

1.2. Mr Clifford Mey, an adult businessman, whose conduct at all relevant times to this matter was regulated in terms of the provisions of the Financial Advisory and Intermediary Services

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Act, 37 of 2002 (the FAIS Act). Mey is the Respondent in this matter.

## 2. Preamble to the agreement

- 2.1. In April 2008 Joy Finance (Pty) Limited (Joy Finance) was duly authorised by the Registrar of Financial Services Providers (the Registrar) to render financial services as contemplated by section 1 read with the provisions of section 8 of the FAIS Act.
- 2.2. Mr Anthony Lubbe (Lubbe) was appointed as the key individual of Joy Finance as contemplated in the definition of "key individual" as provided by section 1 of the FAIS Act read with the provisions of section 8 of that Act.
- 2.3. On 15 April 2008 Joy Finance's licence to act as a financial services provider was withdrawn by the Registrar and Joy Finance was debarred from applying for a new FSP licence for a period of five years.
- 2.4. Following the licence withdrawal, during October 2008, Joy Finance entered into a "*strategic alliance*" with Impact Corporate Brokers CC (Impact), an authorised financial



services provider, in terms of which Joy Finance would transfer its financial services clients to Impact.

- 2.5. In October 2008, the Respondent was appointed as a representative of Impact and was mandated by Impact to act on its behalf and render financial services to clients, especially in respect of those clients that had been transferred from Joy Finance.
- 2.6. On 1 August 2011 the Registrar debarred Lubbe from rendering financial services after he was convicted on two counts of fraud in the Boksburg Regional Court. On Appeal, the two convictions were overturned by the South Gauteng High Court.
- 2.7. From August 2011 to April 2014 whilst the Respondent was a representative of Impact he conducted financial services business with Joy Finance and Lubbe with the knowledge that both Joy Finance and Lubbe were not authorised to render financial services to clients.
- 2.8. The Respondent's conduct constituted a contravention of section 7 (3) of the FAIS Act which provides as follows:

*"An authorised financial services provider or representative may only conduct financial services related business with a person rendering financial services if that person has, where*

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*lawfully required, been issued with a licence for the rendering of such financial services and the conditions and restrictions of that licence authorises the rendering of those financial services, or is a representative as contemplated in this Act."*

- 2.9. Moreover, the Respondent's conduct constituted a breach of section 2 of the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003 (the Code which provides that:

*"A provider must at all times render financial services honestly, fairly, with due skill, care and diligence, and in the interests of clients and the integrity of the financial services industry."*

- 2.10. In light of the Respondent's conduct mentioned hereinabove, the Registrar referred the case against him to the Enforcement Committee of the Financial Services Board in terms of section 6A(1)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001 (the FI Act).

### **3. The admissions and agreed penalty**

- 3.1. The Respondent admits that his actions constituted contraventions of section 7 (3) of the FAIS Act and section 2 of the Code as set out above.

3.2. The parties agree that the Respondent will pay a penalty, as envisaged in section 6D(2)(a) of the FI Act, and a contribution to the costs of the Applicant as envisaged in section 6D(5) of the FI Act, in the total amount of R800 000 ( eight hundred thousand rand).

3.3. The parties humbly request that the Honourable Chairperson of the Enforcement Committee makes the settlement an order, as envisaged in section 6B(7)(b) of the FI Act.

**4. The mitigating circumstances**

4.1. It is also agreed that the following mitigating factors are relevant to the matter:

4.1.1. The Respondent has co-operated with the Registrar regarding the enforcement action against him and has accepted his wrongful conduct. He has not wasted the Enforcement Committee's resources on a protracted case.

4.1.2. The Respondent has not been found to have breached any of the laws administered by the FSB prior to this matter.

- 4.1.3. The Respondent acknowledges that during the period of the aforesaid contraventions he was assured by Lubbe that Lubbe's debarment was not valid. This was because Lubbe believed that the debarment which was premised on the fraud convictions ceased to exist when the fraud convictions were overturned on Appeal by the South Gauteng High Court.
- 4.1.4. The Respondent only learnt of the correct legal position during early 2014 when he obtained legal advice which clarified to him that the Registrar's decision to debar remains valid until such time that the Registrar's decision is set aside.
- 4.1.5. Upon learning of the correct legal position, he took steps to acknowledge his wrongdoing and steps to ensure that he rectified his conduct.
- 4.1.6. The Respondent is sincerely remorseful for his actions and he has been engaged in a process whereby he met the affected clients to advise them of the correct position regarding Lubbe's and Joy Finance's authorization status.



4.1.7. The Respondent has agreed that the penalty include a contribution to the Applicant's costs which costs were reasonably incurred in investigating the aforesaid contraventions.

4.1.8. The investigation of this matter has not revealed that any clients of Joy Finance were financially prejudiced as a result of incorrect financial advice given during the period of the contravention.

## 5. **Other conditions**

5.1. This agreement is subject to approval by the Enforcement Committee and the parties specifically record that they are aware of the possibility that the Enforcement Committee may not accept the terms of this agreement.

5.2. If the Respondent does not comply with the terms of this agreement and it is necessary for the Financial Services Board (FSB) to proceed with legal proceedings, the Respondent herewith consents to pay all legal costs to the FSB on the Attorney and Client scale in terms of the High Court Rules inclusive of collection commission and Value Added Tax.

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- 5.3. No leniency or postponement given by the FSB to the Respondent or any amendment to the terms and conditions of this agreement will be binding unless such postponement, leniency or amendment is reduced to writing and signed by the parties.
- 5.4. Any receipt of a payment by the FSB after the due date shall be without prejudice to any of the rights of the FSB.
- 5.5. This agreement constitutes the whole agreement between the parties in respect of the offer to pay the penalty and costs.
- 5.6. The parties elect the addresses below as their *domicilium citandi et executandi* for the purposes of service of the Enforcement Committee order and any Notice or pleadings related to the breach of this agreement:

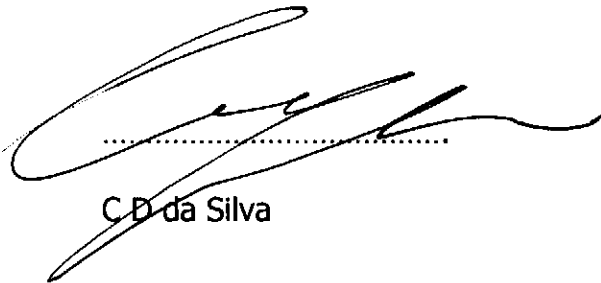
5.6.1. The Financial Services Board  
Block B, Riverwalk Office Park  
No. 41 Matroosberg Road  
Ashlea Gardens  
Pretoria

Mr Clifford Mey

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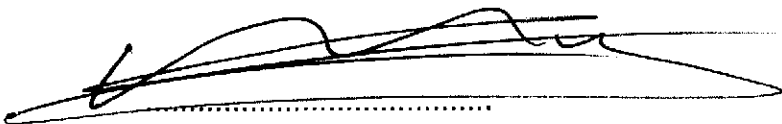
e-mail: [clifford@cliffordmey.co.za](mailto:clifford@cliffordmey.co.za)

Signed at **PRETORIA** on the ..30..... day of ..SEPTEMBER.. **2014** on behalf of the Registrar of Financial Services Providers.



C D da Silva

Signed at <sup>PRETORIA</sup> <sup>cos</sup> ~~PRETORIA~~ the <sup>2ND</sup> day of <sup>OCTOBER</sup> **2014** by the Respondent.



C Mey  
Respondent